



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------|------------------|
| 10/750,479 | 12/31/2003 | Denise J. Nelson | 17,858.1 | 9846 |
| 23556 | 7590 | 11/30/2006 | EXAMINER | |
| KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956 | | | STEPHENS, JACQUELINE F | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3761 | |

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------------------|-------------------------------|--|
| Office Action Summary | Application No. 10/750,479 | Applicant(s) NELSON ET AL. | |
| | Examiner Jacqueline F. Stephens | Art Unit 3761 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/27/06.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/7/06 have been fully considered but they are not persuasive. Applicant argues the 102(b) rejection in the last Office Action. The examiner inadvertently indicated the claimed invention was rejected under 102(b). However, it is apparent from the heading and the obvious statement in the body of the rejection that a rejection under 103(a) was intended. The rejection under 103(a) is repeated.

Applicant argues there is no motivation or suggestion in Kuske for one of skill in the art to modify the Kuske disclosure to achieve the claimed invention. The present invention teaches a disposable absorbent article in a folded configuration where the ratio in the folded configuration to the unfolded configuration is no more than 0.14. Applicant argues the teaching of compressing the stack of absorbent articles has nothing to do with the claimed invention. The examiner respectfully disagrees. Both Kuske and the claimed invention are concerned with reducing the dimensions of the absorbent article. It is not novel to reduce the article by a lesser degree than what is claimed, since the general condition of reducing the size of the article is taught in the prior art.

Applicant argues, regarding claim 13, Kuske lacks the teaching of the subject of the present invention primarily, "consists of only one interior space large enough for the single disposable absorbent article". The examiner maintains Kuske teaches only one interior space and that this interior space is large enough for a single disposable article.

The claim language does not exclude other articles, it limits the interior space to one interior space.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable Kuske et al. USPN 6318555.

As to claims 1, 4, 8, 10-17, 20, 24, and 26-28, Kuske discloses a package 50 enclosing a single article as broadly as claimed. The 'comprising' language used in the independent claims is inclusive or open-ended and does not exclude additional

unrecited elements, compositional components, or steps. Kuske does not disclose the claimed ratios of folded to an unfolded configuration. However, Kuske does disclose the general condition of compressing the absorbent articles in the folded configuration (col. 4, lines 1-15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the absorbent articles with the claimed ratio of the present invention, since where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation, *In re Aller et al.* 105 USPQ 233.

Kuske discloses a package 50 enclosing a single article as broadly as claimed. The 'comprising' language used in the independent claims is inclusive or open-ended and does not exclude additional unrecited elements, compositional components, or steps. The package has a sheet of material 52 having a viewing region 88. The single disposable article 10 is folded and has a graphic 38, which is visible through the viewing region 88. Kuske teaches only one interior space and that this interior space is large enough for a single disposable article. The claim language does not exclude other articles, it limits the interior space to one interior space.

As to claims 2, 3, 5-7, 9, 18, 19, 21-23, and 25, Kuske does not specifically disclose the rigidity of the walls of the package. However, Kuske does describe a weakened area 74 to permit access to the absorbent articles. One having ordinary skill in the art would be motivated to have some less rigid areas to facilitate opening of the

Art Unit: 3761

package. Additionally, it would be obvious to one having ordinary skill in the art have some regions more rigid. Doing so would provide a bag that is not completely collapsible and has the ability to maintain the structure of the absorbent articles.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

Art Unit: 3761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

November 27, 2006